
By: **Senator Green**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Possession of Stolen Motor Vehicle - Rebuttable**
3 **Presumption of Theft**

4 FOR the purpose of creating a rebuttable presumption that a person who possesses a
5 stolen motor vehicle is in violation of a prohibition against the possession of
6 stolen personal property with knowledge or belief the property has been stolen
7 under certain circumstances; creating a rebuttable presumption that a person
8 who possesses a stolen motor vehicle is in violation of knowingly and willfully
9 taking a motor vehicle out of a certain owner's lawful custody, control, or use
10 without the owner's consent; creating a rebuttable presumption that a person
11 who possesses a stolen motor vehicle is in violation of a prohibition against
12 entering and being on the premises of another and taking or carrying away from
13 the premises or out of the custody or use of another certain property; and
14 generally relating to possession of a stolen motor vehicle.

15 BY repealing and reenacting, with amendments,
16 Article - Criminal Law
17 Section 7-104, 7-105, and 7-203
18 Annotated Code of Maryland
19 (2002 Volume and 2003 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Criminal Law**

23 7-104.

24 (a) A person may not willfully or knowingly obtain or exert unauthorized
25 control over property, if the person:

26 (1) intends to deprive the owner of the property;

27 (2) willfully or knowingly uses, conceals, or abandons the property in a
28 manner that deprives the owner of the property; or

1 (3) uses, conceals, or abandons the property knowing the use,
2 concealment, or abandonment probably will deprive the owner of the property.

3 (b) A person may not obtain control over property by willfully or knowingly
4 using deception, if the person:

5 (1) intends to deprive the owner of the property;

6 (2) willfully or knowingly uses, conceals, or abandons the property in a
7 manner that deprives the owner of the property; or

8 (3) uses, conceals, or abandons the property knowing the use,
9 concealment, or abandonment probably will deprive the owner of the property.

10 (c) (1) A person may not possess stolen personal property knowing that it
11 has been stolen, or believing that it probably has been stolen, if the person:

12 (i) intends to deprive the owner of the property;

13 (ii) willfully or knowingly uses, conceals, or abandons the property
14 in a manner that deprives the owner of the property; or

15 (iii) uses, conceals, or abandons the property knowing that the use,
16 concealment, or abandonment probably will deprive the owner of the property.

17 (2) In the case of a person in the business of buying or selling goods, the
18 knowledge required under this subsection may be inferred if:

19 (i) the person possesses or exerts control over property stolen from
20 more than one person on separate occasions;

21 (ii) during the year preceding the criminal possession charged, the
22 person has acquired stolen property in a separate transaction; or

23 (iii) being in the business of buying or selling property of the sort
24 possessed, the person acquired it for a consideration that the person knew was far
25 below a reasonable value.

26 (3) In a prosecution for theft by possession of stolen property under this
27 subsection, it is not a defense that:

28 (i) the person who stole the property has not been convicted,
29 apprehended, or identified;

30 (ii) the defendant stole or participated in the stealing of the
31 property; or

32 (iii) the stealing of the property did not occur in the State.

33 (4) Unless the person who criminally possesses stolen property
34 participated in the stealing, the person who criminally possesses stolen property and

1 a person who has stolen the property are not accomplices in theft for the purpose of
2 any rule of evidence requiring corroboration of the testimony of an accomplice.

3 (5) THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON WHO
4 POSSESSES A STOLEN MOTOR VEHICLE IS IN VIOLATION OF PARAGRAPH (1) OF THIS
5 SUBSECTION.

6 (d) A person may not obtain control over property knowing that the property
7 was lost, mislaid, or was delivered under a mistake as to the identity of the recipient
8 or nature or amount of the property, if the person:

9 (1) knows or learns the identity of the owner or knows, is aware of, or
10 learns of a reasonable method of identifying the owner;

11 (2) fails to take reasonable measures to restore the property to the
12 owner; and

13 (3) intends to deprive the owner permanently of the use or benefit of the
14 property when the person obtains the property or at a later time.

15 (e) A person may not obtain the services of another that are available only for
16 compensation:

17 (1) by deception; or

18 (2) with knowledge that the services are provided without the consent of
19 the person providing them.

20 (f) Under this section, an offender's intention or knowledge that a promise
21 would not be performed may not be established by or inferred solely from the fact that
22 the promise was not performed.

23 (g) (1) A person convicted of theft of property or services with a value of
24 \$500 or more is guilty of a felony and:

25 (i) is subject to imprisonment not exceeding 15 years or a fine not
26 exceeding \$25,000 or both; and

27 (ii) shall restore the property taken to the owner or pay the owner
28 the value of the property or services.

29 (2) Except as provided in paragraph (3) of this subsection, a person
30 convicted of theft of property or services with a value of less than \$500, is guilty of a
31 misdemeanor and:

32 (i) is subject to imprisonment not exceeding 18 months or a fine
33 not exceeding \$500 or both; and

34 (ii) shall restore the property taken to the owner or pay the owner
35 the value of the property or services.

1 (3) Subject to paragraph (4) of this subsection, a person who has two or
2 more prior convictions under this subtitle and who is convicted of theft of property or
3 services with a value of less than \$500 is guilty of a misdemeanor and:

4 (i) is subject to imprisonment not exceeding 5 years or a fine not
5 exceeding \$5,000 or both; and

6 (ii) shall restore the property taken to the owner or pay the owner
7 the value of the property or services.

8 (4) The court may not impose the penalties under paragraph (3) of this
9 subsection unless the State's Attorney serves notice on the defendant or the
10 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at
11 least 15 days before trial that:

12 (i) the State will seek the penalties under paragraph (3) of this
13 subsection; and

14 (ii) lists the alleged prior convictions.

15 (h) (1) If a person is convicted of a violation under this section for failure to
16 pay for motor fuel after the motor fuel was dispensed into a vehicle, the court shall:

17 (i) notify the person that the person's driver's license may be
18 suspended under § 16-206.1 of the Transportation Article; and

19 (ii) notify the Motor Vehicle Administration of the violation.

20 (2) The Chief Judge of the District Court and the Administrative Office
21 of the Courts, in conjunction with the Motor Vehicle Administration, shall establish
22 uniform procedures for reporting a violation under this subsection.

23 (i) An action or prosecution for theft of property or services with a value of
24 less than \$500 shall be commenced within 2 years after the commission of the crime.
25 7-105.

26 (a) In this section, "owner" means a person who has a lawful interest in or is in
27 lawful possession of a motor vehicle by consent or chain of consent of the title owner.

28 (b) A person may not knowingly and willfully take a motor vehicle out of the
29 owner's lawful custody, control, or use without the owner's consent.

30 (c) A person who violates this section:

31 (1) is guilty of the felony of taking a motor vehicle and on conviction is
32 subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both;
33 and

34 (2) shall restore the motor vehicle or, if unable to restore the motor
35 vehicle, pay to the owner the full value of the motor vehicle.

1 (d) THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON WHO POSSESSES
2 A STOLEN MOTOR VEHICLE IS IN VIOLATION OF SUBSECTION (B) OF THIS SECTION.

3 (E) (1) This section does not preclude prosecution for theft of a motor vehicle
4 under § 7-104 of this part.

5 (2) If a person is convicted under § 7-104 of this part and this section for
6 the same act or transaction, the conviction under this section shall merge for
7 sentencing purposes into the conviction under § 7-104 of this part.

8 7-203.

9 (a) Without the permission of the owner, a person may not enter or be on the
10 premises of another, and take and carry away from the premises or out of the custody
11 or use of the other, or the other's agent, or a governmental unit any property,
12 including:

13 (1) a vehicle;

14 (2) a motor vehicle;

15 (3) a vessel; or

16 (4) livestock.

17 (b) A person who violates this section is guilty of a misdemeanor and on
18 conviction:

19 (1) is subject to imprisonment for not less than 6 months and not
20 exceeding 4 years or a fine not less than \$50 and not exceeding \$100 or both; and

21 (2) shall restore the property taken and carried away in violation of this
22 section or, if unable to restore the property, shall pay to the owner the full value of the
23 property.

24 (c) It is not a defense to this section that the person intends to hold or keep the
25 property for the person's present use and not with the intent of appropriating or
26 converting the property.

27 (D) THERE IS A REBUTTABLE PRESUMPTION THAT A PERSON WHO POSSESSES
28 A STOLEN MOTOR VEHICLE IS IN VIOLATION OF SUBSECTION (A) OF THIS SECTION.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2004.